REMARKS

Claims 4, 16-18, 26 and 27 are pending in the present patent application. Claims 4, 16-18, 26 and 27 stand rejected. This application continues to include claims 4, 16-18, 26 and 27.

Applicants thank the Examiner for considering Applicants' previous arguments and for providing a response thereto.

Claims 4, 16-18, 26 and 27 were rejected under 35 USC §102(b) as being anticipated by Minami, et al., U.S. Patent No. 6,034,963 (hereinafter, Minami). Applicants respectfully request reconsideration of the rejection of claims 4, 16-18, 26 and 27 in view of the following.

Minami is directed to the decoding of network protocols and processing of packet data during packet reception without the time-consuming overhead of software or software/hardware implementations (col. 1, lines 9-11). Minami discloses that a protocol handler parses, interprets and strips header information immediately from the packet, and that the resulting data are passed to the next protocol layer or a data handler consisting of data state machines that decode data formats and react according to the pertinent data (col. 2, lines 35-52). Minami also discloses that any outgoing network packets are created by the data state machines and passed through the network protocol state machine which adds formats to the packet, and checksums the information header information, and forwards the resulting network packet via a physical transport level mechanism (col. 2, lines 57-62).

Applicants believe that Minami does not disclose, teach, or suggest the subject matter of claims 4, 16-18, 26 and 27 for at least the reasons set forth in Applicants' previous Response, electronically filed August 31, 2007, which are incorporated by reference herein, and for at least the reasons set forth below.

For example, claim 4 is directed to a method of processing data packets.

Claim 4 recites, in part, generating a plurality of response data packets based on the pertinent information, wherein said extracting and generating steps are performed without use of a microprocessor.

In contrast to claim 4, Minami discloses that any outgoing network packets are created by the data state machines and passed through the network protocol state machine which adds formats to the packet, and checksums the information header information, and forwards the resulting network packet via a physical transport level mechanism (col. 2, lines 57-62).

However, the Minami outgoing network packets are not disclosed, taught or suggested in any manner to be "response" data packets, much less based on the pertinent information. Rather, the Minami packets are described only generally as outgoing packets.

In the Response to Arguments, it is asserted that "Minami explicitly discloses that each data state machine reacts according to the pertinent data and any outgoing network packets are created by the data state machines as described in col.2 ln.49-52 and ln.57-62." From this, it is further asserted that "the outgoing network packets generated by state machines are equivalent to the response data packets, and the outgoing packets are based on the pertinent information used by each data state machine."

Applicants respectfully disagree, for at least the reasons that follow:

Firstly, the "response data packets" of claim 4 that are generated based on the pertinent information are "response" data packets because they respond to the incoming received packets.

For example, Applicants respectfully direct the Examiner's attention to Applicants' specification at page 6, lines 15-20, which is reproduced below for the sake of convenience.

> Meanwhile, event decoder 34 extracts header data, e.g., extracted elements 41, by activating the enable inputs of storage flip-flops attached to the data stream. When the PACKET GOOD signal is pulsed, protocol state machine 22 can determine if a response is necessary. If such a response is called for, the extracted

> header information is then available to packet generator 14 as header input data for transmission. (Emphasis added).

In addition, Applicants' Fig. 1 illustrates protocol state machine 22 providing data to packet generator 14 for "Transmit Packets," wherein the "Payload Data to Transmit" is provided by peripheral device 20.

Because the extracted header information from the received packet (which is pertinent information as set forth in Applicants' specification at page 4, lines 9-11) is used to provide the header data for the response data packet, which includes the source and destination addresses (Fig. 2), Applicants respectfully submit that it is clear that a "response data packet" within the context of Applicants' invention, is a data packet sent back to the source of the incoming packet that was received and processed.

As set forth in MPEP 2111, the Patent and Trademark Office ("PTO") determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art." *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004). Indeed, the rules of the PTO require that application claims must "conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description." 37 CFR 1.75(d)(1). *Phillips v. AWH Corp.* 415 F.3d at 1316, 75 USPQ2d at 1329. See also In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). (Emphasis added).

However, Minami does not disclose, teach, or suggest that the outgoing packets created by the data state machines are *response* data packets within the context of Applicants' invention, since Minami does not disclose, teach, or suggest *that the outgoing packets are sent back to the source that sent the original incoming data packets that were received by the Minami apparatus.*

In addition, Minami does *not associate* the asserted pertinent information with the outgoing data packets. Rather, in the relied-upon Minami paragraph at column 2, lines 35-62, Minami discusses many concepts, of which one is that each data state machine reacts accordingly to the pertinent data, and another is that any outgoing data packets are created by the data state machines, but *without any correlation* between the two.

That is, Minima does not explicitly disclose or otherwise imply or suggest that the outgoing data packets are generated based on the pertinent information.

Applicants respectfully submit that the simple fact that Minami discloses "pertinent" information, and that Minami also discloses that data state machines creating any outgoing packets, does not in of itself disclose, teach, or suggest or otherwise imply that the outgoing packets are created based on the pertinent information. Minami simply does not disclose, teach, or suggest in any manner that the outgoing network packets are created by the data state machines based on the asserted pertinent information.

Rather, the Minami outgoing packets pertain to, for example, requests by a user, such as to download a JPEG image from a host server (col. 4, lines 56-69).

It will be noted that the Minami discussion of processing the user's request, and the processing of the incoming JPEG data, described at Minami column 4, line 60 to column 5, line 42, does *not* include any description of the Minami state machines sending "response data packets" to the host server.

Further, Minami explicitly discloses that the protocol handler parses and strips the header information from the packet, and then passes the resulting data to the state machines to decode data formats such as email, graphics, HTTP and HTML (col. 2, lines 43-52).

Thus, the asserted Minami "pertinent data" does ***not*** include the header information that Applicants' specification defines to be pertinent data, and which is used to generate the response data packets. The Minami state machines simply do not operate on the header information, which is parsed and stripped by the Minami protocol handler prior to the data state machines receiving the rest of the data.

Thus, Applicants respectfully submit that Minami does not disclose, teach, or suggest generating a plurality of response data packets based on the pertinent information, wherein the extracting and generating steps are performed without use of a microprocessor, as recited in claim 4.

Claim 4 also recites, in part, transmitting a signal indicating that the response data packets should be sent. Applicants respectfully submit that Minami does not disclose, teach, or suggest transmitting a signal indicating that the response data packets should be sent, as recited in claim 4, for at least the reasons set forth in their previous Response.

In the Response to Arguments, it is asserted that the Minami data state machines create outgoing network packets, and are composed of a finite number of states, transitions between those states, and actions; that a transition indicates a state change and is described by a condition that would need to be fulfilled to enable the transition; and that it is thus inherent to transmit a signal indicating the outgoing packets should be sent.

Applicants respectfully submit that, even assuming, arguendo, that the Examiner's characterization of the Minami state machines is correct, *one skilled in the art would not consider*

a transition indicating a state change in a state machine to be transmitting a signal indicating the packets should be sent, as recited in claim 4.

The asserted transition that indicates a state change simply does not imply a transmission of a signal indicating a response data packet should be sent, but rather, assertedly pertains to internal operations of a state machine that creates outgoing network packets, which has nothing to do with *determining when or whether the outgoing data packets should be sent*.

The fact of creating an outgoing packet does not in of itself disclose, teach, or suggest or otherwise imply that the packet should be sent or transmitting a signal that the packet should be sent.

The internal workings of the state machines in creating outgoing packets does not disclose, teach, or suggest that the outgoing packets should be sent, much less a signal indicating that the packet should be sent.

Rather, the asserted transitions that take place during the creation of the outgoing packets pertain only to the creation of the packets, and are unrelated to transmitting a signal indicating that a response data packet should be sent.

Applicants respectfully submit that the Examiner may not, because of doubt that the invention is patentable, resort to speculation, unfounded assumption or hindsight reconstruction to supply deficiencies in the factual basis for the rejection. *In re Warner*, 154 U.S.P.Q. 173,178 (CCPA 1967).

In addition, Applicants respectfully submit that MPEP 2112(IV) provides that to establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, *and that it would be so recognized by*

persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. *The mere fact that a certain thing may result from a given set of circumstances is not sufficient*. *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (Emphasis added).

Applicants respectfully submit that it is not necessarily present in the Minami function that a signal indicating that the response data packets should be sent is transmitted.

For example, Minami provides that each data state machine reacts accordingly to the pertinent data (col. 2, lines 49-50).

Thus, Minami explicitly discloses that the state machines are reactive in nature, and react to the data, and hence do not require a separate signal in order for the described function to be performed.

Hence, the signal of claim 4 is not necessarily present in the function described in the Minami reference, and accordingly, it is not inherent to send a signal for the Minami function described at column 2, lines 57-62.

Further, the mere fact that the Minami state machines are disclosed as creating outgoing network packets, or that outgoing data packets are sent, "is not sufficient" (*id.*) to conclude that it is inherent that Minami transmits a signal indicating that the response data packets should be sent. [MPEP 2112(IV)]

Minami is silent as to the state machines transmitting a signal indicating that the response data packets should be sent.

Nor would one of ordinary skill in the art recognize a transition indicating a state change as being the transmission of a signal indicating the packets should be sent, as recited in claim 4.

Accordingly, Applicants respectfully submit that the subject matter of claim 4 is not inherent in view of the Minami disclosure.

In addition, as set forth in MPEP 2131, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (Emphasis added). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)(Emphasis added). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990) (Emphasis added).

Applicants respectfully submit that since the claim limitation "transmitting a signal indicating that the response data packets should be sent," is not expressly or inherently described in the Minami reference, since the identical invention is not shown in Minami in as complete detail as is contained in the claim, and since the elements in Minami are not arranged as required by the claim, claim 4 is not anticipated by Minami.

Accordingly, for at least the reasons set forth above, Applicants respectfully submit that Minami does not disclose, teach, or suggest the subject matter of claim 4, and thus respectfully request that the rejection of claim 4 under 35 U.S.C. §102(b) be withdrawn.

Claim 16 is directed to a data packet communication system, and recites, in part, a packet generator connected to said peripheral device and said filter device, said packet generator being configured to generate a plurality of response data packets based on said pertinent information, wherein said packet generator is configured to transmit said response data packets; and wherein

said filter device is configured to transmit a signal indicating that said response data packets should be generated.

Applicants respectfully submit that Minami does not disclose, teach, or suggest generating a plurality of response data packets based on the pertinent information, as recited in claim 16, for at least the reasons as set forth above with respect to claim 4.

In addition, Applicants respectfully submit that Minami does not disclose, teach, or suggest transmitting a signal indicating that said response data packets should be *generated*, as recited in claim 16, for at least the reasons set forth above with respect to the claim 4 limitation, "transmitting a signal indicating that the response data packets should be *sent*." (Emphasis added).

In addition, as set forth above with respect to claim 4, Minami discloses that each data state machine reacts accordingly to the pertinent data (col. 2, lines 49-50), and thus explicitly discloses that the state machines are reactive in nature, and react to the data, and hence do not require a separate signal in order for the described function to be performed.

Accordingly, Applicants respectfully submit that Minami does not disclose, teach, or suggest the subject matter of claim 16. Claim 16 is thus believed allowable in its present form.

Claims 17 and 18 are believed allowable due to their dependence on otherwise allowable base claim 16. In addition, claims 17 and 18 further and patentably define the invention over Minami.

Claim 26 is directed to a data packet communication device, and recites, in part, a packet generator configured to generate a plurality of response data packets based on said pertinent

information, wherein said filter device is configured to transmit a signal indicating that said response data packets should be generated.

Claim 26 is believed allowable in its present form for substantially the same reasons as set forth above with respect to claim 16.

Claim 27 is believed allowable due to its dependence on otherwise allowable base claim 26. In addition, claim 27 further and patentably defines the invention over Minami.

Accordingly, for at least the reasons set forth above, Applicants respectfully submit that Minami does not disclose, teach, or suggest the subject matter of claims 4, 16-18, 26 and 27, and thus respectfully request that the rejection of claims 4, 16-18, 26 and 27 under 35 U.S.C. 102(b) be withdrawn.

For the foregoing reasons, Applicants submit that the cited reference does not disclose, teach, or suggest the subject matter of the pending claims. The pending claims are therefore in condition for allowance, and Applicants respectfully request withdrawal of all rejections and allowance of the claims.

In the event Applicants have overlooked the need for an extension of time, an additional extension of time, payment of fee, or additional payment of fee, Applicants hereby conditionally petition therefor and authorize that any charges be made to Deposit Account No. 20-0095, TAYLOR & AUST, P.C.

Should any question concerning any of the foregoing arise, the Examiner is invited to telephone the undersigned at (317) 894-0801.

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